

## Rising Star: Gibson Dunn's Theane Evangelis

By **Carolina Bolado**

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She's not yet 40, but already Gibson Dunn's Theane Evangelis has worked on some blockbuster cases, including the challenge to California's ban on same-sex marriage, and most recently won reversal of a \$94 million wage-and-hour class judgment against ABM Industries Inc., making her a Law360 Rising Star in the appellate arena.

Evangelis, who has been with Gibson Dunn since 2007, was co-lead partner on the team that defended ABM against a wage-and-hour class action brought by thousands of security guards who claim they were kept "on call" during breaks. In December, a California appeals court vacated a \$94 million judgment against the company and held that state law does not require employers to relieve workers of all duties during breaks.

Rather than just attacking class certification, the Gibson Dunn team aggressively went after the trial court's interpretation of the substantive law.

"This is a cutting-edge question of law, and we were convinced that the argument that the plaintiffs made here was wrong as a matter of law and policy, and we challenged it on the merits," Evangelis said.

She said that the appellate strategy of going back to the basic principles of the law is something that she learned from day one at Gibson Dunn.

"In order to really shape the law and understand the law, you have to go back to its foundations and really craft your arguments in that law," Evangelis said. "This is the approach that our appellate practice group takes to cases."

The ability to shape the law is what draws her to appellate work. She first got a taste of the appeals court process while clerking for U.S. Circuit Judge Alex Kozinski of the Ninth Circuit and later for Justice Sandra Day O'Connor on the U.S. Supreme Court.



Theane Evangelis

“I really loved grappling with challenging and difficult questions of law,” she said. “As an appellate lawyer, I’m able to have a practice that involves that type of work.”

Following her clerkships, Evangelis worked for a few years at a small media and entertainment boutique firm before moving to Gibson Dunn, where she hit the ground running and immediately got involved in the firm’s representation of Wal-Mart Stores Inc. in the landmark Dukes case that eventually landed in the U.S. Supreme Court. The high court in 2011 reversed certification of the class of 1.6 million female Wal-Mart workers who have alleged gender discrimination in pay and promotion policies.

The firm, she said, gives associates who are willing and able to work on these huge cases the opportunity to do so. As an associate, she was also put onto the case against Proposition 8, California’s ban on same-sex marriage. Evangelis said she worked on that case from the trial level all the way to the U.S. Supreme Court.

She added that getting involved in a case from the very beginning is key for the appellate lawyers to begin setting up the case for an appeal later. At trial, for example, it’s important to raise constitutional questions to shape the record and the litigation strategy.

“Coming in after a case has been litigated at the trial court and reading a cold record involves some limitations on what you can and can’t do,” Evangelis said. “You want to shape it from the very beginning.”

In the past year Evangelis has also been on the team defending Woodbridge Foam Corp., a Canadian producer of polyurethane foam, in a consolidated multidistrict litigation alleging a price-fixing conspiracy. The U.S. Supreme Court recently declined to review the appeal of the class certification order, but Evangelis said that her team made “some very novel and persuasive arguments” regarding the inclusion in the class of millions of uninjured people.

“This is an issue that has been percolating in the courts, and we’ve been on the front lines making these arguments,” she said. “At some point, the Supreme Court will have to decide it.”

She also is representing nine California public school students as they fight on appeal to maintain their victory against a state law regulating public school teacher dismissal. A state court judge ruled that the statute creates a system that exposes students, particularly poor and minority students to ineffective teachers and violates the equal protection clause of the state’s constitution.

“We really exposed the problems with these laws in California that make it impossible for school districts to dismiss ineffective teachers,” Evangelis said. “It’s a terrible situation that’s harming our kids.”

--Editing by Mark Lebetkin.